

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

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|------------------------------------|----------|---------------------------------------|
| WSOU INVESTMENTS, LLC D/B/A | § | |
| BRAZOS LICENSING AND | § | CIVIL ACTION 6:20-cv-00923-ADA |
| DEVELOPMENT, | § | CIVIL ACTION 6:20-cv-00924-ADA |
| <i>Plaintiff,</i> | § | CIVIL ACTION 6:20-cv-00925-ADA |
| | § | CIVIL ACTION 6:20-cv-00926-ADA |
| v. | § | CIVIL ACTION 6:20-cv-00927-ADA |
| | § | |
| NEC CORPORATION, | § | |
| <i>Defendant.</i> | § | |
| | § | |

**PLAINTIFF’S (OPPOSED) MOTION TO STRIKE DEFENDANT’S OPENING CLAIM
CONSTRUCTION SUBMISSION**

Plaintiff WSOU Investments, LLC (“WSOU”) files this Motion to Strike NEC Corporation’s (“NEC”) opening claim construction brief and attachments. NEC’s counsel has indicated that NEC opposes this Motion.

On September 10, 2021, NEC filed its opening claim construction brief pursuant to the scheduling order. ECF No. 29. The opening brief itself addressed 16 claim terms, in accordance with the Court’s September 1, 2021 instructions. As part of its opening brief submission, however, NEC filed an approximately 30-page supplemental brief as Appendix A (ECF No. 29-19) and a supporting declaration as Appendix B (ECF No. 29-19), which, contrary to the Court’s instructions, included additional briefing and alleged expert opinions on 24 additional claim terms that were not addressed in NEC’s opening brief. WSOU objected to NEC’s violation of the Court’s order and the parties jointly approached the Court to resolve the dispute.

On September 22, 2021, the Court determined that NEC’s tactic was improper, indicated that “the Court will STRIKE Dkt. No. 29 for each of the cases in its entirety,” and “ORDERED [NEC] to submit a new brief addressing all 14 agreed means-plus-function terms, along with 4

additional terms.” The Court also instructed WSOU “to file a Motion to Strike, including a Proposed Order.”

Therefore, WSOU respectfully requests the Court enter the proposed order, attached hereto as Exhibit A, striking NEC’s entire opening claim construction submission (ECF No. 29) for violating the Court’s September 1, 2021 order.

DATED: September 23, 2020

Respectfully submitted,

By: /s/ Mark D. Siegmund

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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2021, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Mark D. Siegmund
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